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SENSITIVE

SIPDIS

DEPT FOR EEB TPP/BTA AND EAP/MTS

DEPT PASS USTR FOR BARBARA WEISEL AND DOUGLAS BELL

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SUBJECT: U.S.-Malaysia FTA: Encouraging Signals

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Summary and Introduction

¶11. (SBU) Senior Malaysian government officials reaffirmed Malaysia's interest in continuing FTA negotiations during meetings May 5 and 6 with Assistant USTR for Southeast Asia and the Pacific Barbara Weisel. Senior MITI officials proposed another round in July and noted the possibility of a follow-on round in the late fall. The Malaysians expressed the desire to close out as many chapters of the agreement as possible in the upcoming round and signaled new potential flexibility in difficult areas such as services and the possibility of scoping discussions on government procurement. Despite the potential uncertainty created by Malaysia's recent general elections, Malaysian officials remain committed to the FTA negotiation process.

Chief Secretary Sidek Hassan

¶12. (SBU) The PM's Chief Secretary Sidek Hassan (the government's highest ranking civil servant) acknowledged to AUSTR Weisel that there were many difficulties yet to be resolved in the FTA negotiations, including obtaining cabinet authority to negotiate sensitive chapters. Nevertheless, Sidek repeatedly encouraged AUSTR Weisel to keep the negotiations going. Sidek also acknowledged that the leadership in Malaysia was currently focused on commodity (particularly food grain) driven inflation and domestic politics, but trade negotiations were still important.

Ministry of International Trade and Industry (MITI)

¶13. (SBU) In his meeting with AUSTR Weisel, MITI Secretary General Dato' Abdul Rahman said that Minister Muhyiddin wanted to move forward on FTAs in general. He also had personally signed off on MITI's recommendation for holding another FTA negotiating round with the U.S. in the July timeframe as well as a possible follow-on round in the fall. AUSTR Weisel welcomed that and said both sides needed to work toward closing out as many chapters as possible in July. Rahman also noted that Malaysia had done preparatory work to develop new flexibility in the services chapter, particularly with regard to restrictions on foreign investment in the services sector. He welcomed the EPU's efforts to inject rational policy thinking on the liberalization of services into the FTA negotiations (see paragraph 5). Rahman said Minister Muhyiddin had specific concerns about explaining how government procurement (GP) would benefit Malaysia but was okay with the idea of open international tenders. He added

that the efforts of opposition controlled states to liberalize GP could help put pressure on the Finance Ministry to move as well. AUSTR Weisel said there were ways to deal with GP issues but Malaysia's negotiators needed the authority to brainstorm on possible approaches. Rahman responded that internal discussions on liberalizing GP were being driven by Pemudah, the public/private task force on business facilitation reform (which is chaired by Chief Secretary Sidek). The reform process just needed some time and he was hopeful that the cabinet would provide a broader mandate to negotiate these chapters.

¶4. (SBU) MITI's Jayasiri, the working level lead for the U.S.-Malaysia FTA talks, told AUSTR Weisel that the relevant ministries continue to seek ways to bridge differences with the U.S. on issues under negotiations, in anticipation of the next round of talks. He said that MITI would seek revised cabinet mandate on various issues, including on services and investment. On services, Jayasiri said MITI continues to negotiate with other ministries to deepen existing offers and to broaden offers to other sectors, such as franchising (he said Malaysia would have new offers on franchising as well as environmental services). Weisel welcomed the progress, but emphasized that the U.S. continued to need a comprehensive offer.

Economic Planning Unit (EPU) - A New FTA Role

¶5. (SBU) Datuk Dr. K. Govindan of EPU (the Prime Minister's economic planning office) told AUSTR Weisel that EPU will be playing a more active role in Malaysia's FTA negotiations. He noted that, although MITI has long been the lead ministry on FTA talks, it could not direct other agencies to take action. EPU planned to play such a coordinating role, however, articulating to all relevant ministries

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the broader national interests in concluding free trade agreements. Govindan cautioned that EPU is still getting up to speed on the issues involving Malaysia's various pending FTA talks, and would initially be more in a listening mode, but the agency planned to eventually be directing economic policy. Govindan said EPU would be studying previous U.S. FTAs, and expressed particular interest in those agreements' coverage of government procurement, services, and legal issues. Govindan noted that the services sector would be key to Malaysia's future prosperity, and Malaysia should be looking at FTAs to help make that sector more competitive.

Agriculture

¶6. (SBU) AUSTR Weisel passed an updated market access offer to Ministry of Agriculture Deputy Secretary General Dato' Ibrahim bin Muhamad. She noted that the U.S. remained concerned about Malaysia's latest offer, which continues to omit coverage of some tariff lines (such as certain tobacco products) and also does not bring all tariff lines to zero at some future date (most notably regarding alcoholic beverages). Weisel noted that overall the agriculture chapter negotiations had made progress, and both sides should endeavor to largely complete the chapter this year. Ibrahim noted that other ministries have jurisdiction on certain items in the agriculture offer (Plantations Ministry for tobacco, Finance Ministry for alcoholic beverages). (Note: Weisel raised the alcoholic beverages offer separately with Finance Ministry Deputy Secretary General Dato' Ibrahim Mahaludin, who promised to pass our concerns to his ministry's tax office).

¶7. (SBU) Ibrahim was open to the U.S. and Malaysian teams meeting to discuss the current offers in advance of the next round, so that the chapter could be closed at that round, provided both sides could identify a mutually acceptable time and venue before July. Weisel also raised U.S. concerns about Malaysia's restrictive proposals on certifying U.S.-origin Halal meat, Malaysia's proposed inspection fees for foreign meat plants, and implementation of Malaysia's new biotech labeling law.

Competition Policy and IPR

¶8. (SBU) Ministry of Domestic Trade and Consumer Affairs (MDTCA) Secretary General Dato' Mohd Zain bid Mohd Dom told AUSTR Weisel that the ministry continued to work towards potential parliamentary approval of Malaysia's domestic competition law by the end of 2008. MDTCA continued to solicit the views of other ministries, the business sector, and NGOs as it completed the draft bill. Zain noted that MDTCA's unusually transparent approach to drafting the bill preceded the ground-breaking March elections, and added that the new Minister of Domestic Trade, Datuk Shahrir Abdul Samad, was a reformer who strongly supported transparency in government operations to the extent possible. Although the new government was weaker than before, Zain noted that it was taking transparency and good governance more seriously, which would encourage progress this year.

¶9. (SBU) Weisel welcomed news of the new bill's progress. She reiterated that the U.S. continued to seek inclusion of competition policy in the FTA, and in particular a chapter that would apply to all commercial entities, including Malaysia's government linked companies. She underscored that the U.S. was not wedded to a particular template and wished to craft an original chapter with Malaysia. Zain noted that his ministry would welcome capacity building assistance once it came time to implement the new law.

¶10. (SBU) Weisel told Zain that the U.S. welcomed the progress on the IPR chapter that had been achieved over the course of the FTA talks. Both sides should consider some quiet conversations to work out possible tradeoffs that would bring the chapter to conclusion, hopefully by the summer 2008 round. Zain agreed that it would be helpful to the overall FTA progress for both sides to agree on as many areas as soon as possible in order to encourage progress on the remaining difficult issues.

Government Procurement

¶11. (SBU) Although Ministry of Finance Deputy Secretary General Dato' Ibrahim Mahaludin told AUSTR Weisel that the Cabinet mandate opposing negotiation of a government procurement chapter in the FTA still stood, he suggested that the ministry might be able to engage

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in informal discussions with the U.S. He attributed the outlook of the new cabinet, as well as the recent attention to reforming government procurement (in particular at the state level), as instrumental in creating an atmosphere that would allow such a discussion with the U.S. Weisel suggested that both sides find a way to discuss the real sensitivities and how they might be addressed; once a mandate to negotiate a GP chapter was approved, both sides would thus be better able to put together a text in a relatively short period.

Comment

¶12. (SBU) AUSTR Weisel's meetings with Malaysian government officials revealed unexpectedly strong support for continued FTA negotiations with the United States, including the scheduling of another round mid-summer. Chief Secretary Sidek encouraged continued talks, though he noted that the Cabinet had not considered any FTA-related issues in recent months. MITI officials broached the idea of a next round, asking us "when" another round would occur, not "if". The EPU's intended new role in overseeing Malaysia's FTA negotiations is very welcome, given the consistent difficulties MITI has experienced over the years in conveying the broad national interest of achieving FTAs to ministries whose interests are primarily parochial. Time will tell how successful EPU will be in overcoming those narrow interests.

¶13. (SBU) The Finance Ministry's new (albeit limited) openness to discussing government procurement was particularly striking; the meeting was hastily requested by the Finance Ministry in the course of Weisel's visit, after our earlier efforts to secure such a meeting had been rebuffed. Like GP, competition appears to be another formerly "no go" issue for which Malaysia is reconsidering

at least informal discussions with U.S. negotiators. Although completion of the FTA in 2008 remains a long shot, Malaysia appears willing to push for revised Cabinet positions in many areas that would encourage the conclusion of a number of FTA chapters, perhaps even by the July round.

¶14. (U) AUSTR Barbara Weisel has cleared this cable.

KEITH